



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-900]

Diamond Sawblades and Parts Thereof from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of the 2015-2016 Antidumping Duty Administrative Review and Notice of Amended Final Results of Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 24, 2021, the U.S. Court of International Trade (the Court) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the U.S. Department of Commerce (Commerce) pertaining to the 2015-2016 antidumping duty (AD) administrative review on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the 2015-2016 AD administrative review of diamond sawblades from China, and that Commerce is amending the final results.

DATES: Applicable March 6, 2021.

FOR FURTHER INFORMATION CONTACT: Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2805.

## SUPPLEMENTARY INFORMATION:

### Background

On April 20, 2018, Commerce published its final results of the 2015-2016 AD administrative review for diamond sawblades from China.<sup>1</sup> In the *Final Results*, we determined the dumping margin for both mandatory respondents, Chengdu Huifeng New Material Technology Co., Ltd. (Chengdu Huifeng) and the Jiangsu Fengtai Single Entity,<sup>2</sup> based entirely on adverse facts available (AFA). Because all the mandatory respondents' rates were based on AFA (and were both the same at 82.05 percent), we applied the mandatory respondents' rate to the companies eligible for a separate rate that were not selected for individual examination, consistent with section 735(c)(5)(B) of the Tariff Act of 1930, as amended (the Act) and the "expected method" of the SAA.<sup>3</sup>

On September 23, 2019, the Court remanded aspects of the *Final Results* to Commerce for further consideration.<sup>4</sup> The Court remanded Commerce's decision to reject as untimely a supplemental questionnaire response submitted by Chengdu Huifeng and directed Commerce to consider Chengdu Huifeng's response in calculating Chengdu Huifeng's individual dumping margin.<sup>5</sup> If this resulted in a change to Chengdu Huifeng's margin, the Court ordered Commerce to adjust the separate rate respondents' rates accordingly.<sup>6</sup> In its first remand redetermination, issued in March 2020,<sup>7</sup> Commerce accepted Chengdu Huifeng's response and calculated an individual dumping margin of zero percent for Chengdu Huifeng.<sup>8</sup> Because all the mandatory respondents' rates were either zero, *de minimis*, or based entirely on AFA, Commerce continued

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<sup>1</sup> See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015-2016*, 83 FR 17527 (April 20, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum.

<sup>2</sup> The Jiangsu Fengtai Single Entity is comprised of Jiangsu Fengtai Diamond Tool Manufacturer Co., Ltd., Jiangsu Fengtai Diamond Tools Co., Ltd., and Jiangsu Fengtai Sawing Industry Co., Ltd.

<sup>3</sup> See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) at 883 (SAA); see also *Albemarle Corp. v. United States*, 821 F.3d 1345 (Fed. Cir. 2016).

<sup>4</sup> See *Bosun Tools v. United States*, Court No. 18-00102, Slip Op. 19-125 (September 23, 2019).

<sup>5</sup> *Id.* at 14-15.

<sup>6</sup> *Id.*

<sup>7</sup> See *Bosun Tools v. United States*, Court No. 18-00102, Slip Op. 19-125, "Final Results of Redetermination Pursuant to Court Remand," dated March 9, 2020 (First Remand Redetermination).

<sup>8</sup> *Id.* at 6.

to determine the separate rate pursuant to the “expected method.”<sup>9</sup> Specifically, Commerce averaged the zero percent margin for Chengdu Huifeng with the 82.05 percent margin for the Jiangsu Fengtai Single Entity to determine a 41.03 percent rate for the separate rate companies.<sup>10</sup>

On July 14, 2020, the Court sustained Commerce’s calculation of Chengdu Huifeng’s zero percent individual margin but remanded Commerce’s determination of the separate rate, finding that Commerce improperly did not consider lower margins from prior administrative reviews in determining whether the separate rate reasonably reflects the separate rate companies’ potential dumping behavior.<sup>11</sup> In its Second Remand Redetermination, issued in October 2020, Commerce considered the rates from prior reviews, under respectful protest, and determined that the prior rates support continuing to use the expected method to determine the separate rate.<sup>12</sup> Accordingly, Commerce continued to calculate a separate rate of 41.03. The Court sustained the Second Remand Redetermination in full.<sup>13</sup>

#### Timken Notice

In its decision in *Timken*,<sup>14</sup> as clarified by *Diamond Sawblades*,<sup>15</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Act, Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court’s February 24, 2021 judgment constitutes a final decision of that court that is not in harmony with Commerce’s *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

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<sup>9</sup> *Id.* at 7-8.

<sup>10</sup> *Id.* at 8.

<sup>11</sup> See *Bosun Tools v. United States*, Court No. 18-00102, Slip Op. 20-97 (July 14, 2020).

<sup>12</sup> See *Bosun Tools v. United States*, Court No. 18-00102, Slip Op. 20-97, “Final Second Remand Redetermination,” dated October 13, 2020 (Second Remand Redetermination).

<sup>13</sup> See *Bosun Tools v. United States*, Court No. 18-00102, Slip Op. 21-23 (February 24, 2021).

<sup>14</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>15</sup> See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010).

### Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to Chengdu Huifeng and the separate rate companies that are party to the litigation. The revised AD margins for the period November 1, 2015, through October 31, 2016, are as follows:<sup>16</sup>

<b>Exporter</b>	<b>Weighted-Average Dumping Margin (Percent)</b>
Chengdu Huifeng New Technology Co., Ltd.	0.00
Bosun Tools Co., Ltd.	41.03
Danyang NYCL Tools Manufacturing Co., Ltd.	41.03
Danyang Weiwang Tools Manufacturing Co., Ltd.	41.03
Guilin Tebon Superhard Marterial Co., Ltd.	41.03
Hangzhou Deer King Industrial and Trading Co., Ltd.	41.03
Jiangsu Youhe Tool Manufacturer Co., Ltd.	41.03
Quanzhou Zhongzhi Diamond Tool Co., Ltd.	41.03
Rizhao Hein Saw Co., Ltd.	41.03
Zhejiang Wanli Tools Group Co., Ltd.	41.03

### Amended Cash Deposit Rates

Because all of the companies have been subject to a subsequent administrative review which established revised cash deposit rates,<sup>17</sup> Commerce will not issue revised cash deposit instructions to U.S. Customs and Border Protection.

### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: March 15, 2021.

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<sup>16</sup> See Second Remand Redetermination at 2-3.

<sup>17</sup> See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 64331 (December 14, 2018); *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 71308 (November 9, 2020).

Christian Marsh,  
Acting Assistant Secretary  
for Enforcement and Compliance.

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